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BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			RUDY, ANDREW J	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/474,576

Filing Date: December 29, 1999

Appellant(s): MOLLETT ET AL.

Mark D. Chuey, Ph.D.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 22, 2003 appealing from the Office action mailed May 27, 2003. The previous Examiner's Answer is vacated.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is deficient because from page 3, lines 10-12 and Figure 1 do not properly disclose the scope of Applicant's inventive concept as claimed. In particular, claims 9-13 do not recite any microprocessor as illustrated in Figure 1..

(6) Issues

The appellant's statement of the issues is correct.

(7) Grouping of Claims

Appellant's Brief does not include a statement that claims 9-13 and 14-16 are grouped to stand or fall together.

(8) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Relied Upon

5,679,940 **TEMPLETON** **10-1997**

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Templeton.

(11) Response to 35 U.S.C. 101 Argument

Claim Rejections - 35 USC § 101

The rejection under 35 U.S.C. 101 of claims 9-13 is withdrawn.

Response to 35 U.S.C. 103, Argument

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Templeton, US 5,679,940.

Applicant's ARGUMENTS regarding the rejection of claims 9-16 under 35 U.S.C. 103 are noted, but not agreed with.

Templeton discloses, e.g. Fig. 1, a method of using a computer for determining whether to collect from check writers using data comprising a negative file 85, a positive file 87, and a credit risk scoring algorithm, e.g. cols. 12-14. Templeton discloses packets, e.g. col. 6, of information sent that helps label a check writer into a designated category. Templeton does not specifically indicate the negative file 85 is modified by removing the negative information, but does not indicate that the negative file 85 is "continuously updated" (col. 12, line 59) and that the positive file 87 is used (col. 13., lines 18-34) to determine suitability of cashing a check.

Templeton inherently contains categories to ascertain whether a check will be honored or not. Templeton updates files, e.g. col. 5, lines 20-45. It is common knowledge and well known in the art that negative information, e.g. honest mistakes of an individual and/or banking institution, are removed from ones credit reports when assessing whether or not to cash a check.

It appears entirely logical and inherent that if a file is continuously updated, that some data is either added or removed to the Templeton database. Thus, one may reasonably infer that either positive or negative information is updated or both events occur during the continuous updating executed by Templeton. Thus, even though not

directly addressed by Templeton, to have provided a modification of a negative file by removing negative information for Templeton would have been obvious to one of ordinary skill in the art. Doing such would use well known correction factors to provide a more complete and updated database for risk assessment, e.g. credit scoring. To have provided the negative file to comprise a scrubbed file would have been obvious to one or ordinary skill in the art, as scrubbed files are well known in the art.

Appellant's ARGUMENTS regarding the rejection of claims 9 and 12 are noted, but are not convincing. It is noted that claim 12 does not provide for plural check writers, but only a single check writer (see claim 12, line 1). Appellant's remarks from page 8, paragraph 3, line 3, that this information is not relevant is not convincing, as the information is deemed relevant. It is the Examiner's position that the negative information disclosed by Templeton is relevant information that comprises a negative file that is modified. Whether or not the activity is done in real-time is not an issue. The claim language makes no such distinction.

Appellant's statement from page 9, line 3, of the Brief is noted. The Examiner points out that "anyone" is a sweeping statement and the Examiner does not concur with its conclusion. Presently, as claimed, presenting, via a telephone call, letter, or in person, a check to bank teller or grocer, and having the bank teller or grocer cash the check after being alerted to an inadvertent error would read upon Appellant's claims

Appellant's statement regarding claims 14-16 from page 9 of the Brief is noted. However, the claim language does not positively recite "a processor classifies individual check writers into one of a plurality of predetermined categories" as noted by Appellant. Appellant's claim 14, lines 5-6, claims "the processor operative to" which is not consistent with Appellant's arguments. As is, the processor of Templeton "relates to," i.e. is operative, the classification of check writers. No lexicography definition has been presented by Appellant to deviate from the plain meaning of the word "operative." Thus, Templeton's system is "operative" and fully encompasses in broad scope and content Appellant's claim language.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Andrew Joseph Rudy
May 4, 2006

Conferees:

Mr. Robert P. Olszewski
Mr. Eric Stamber



Lawrence G. Almeda
Brooks & Cushman PC
1000 Town Center
22nd Floor
Southfield, MI 48075-1351